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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,348	03/23/2004	Ruth Zoellner	1690.1012	3990
21171	7590	12/12/2005	EXAMINER	
STAAS & HALSEY LLP			CEGIELNIK, URSZULA M	
SUITE 700			ART UNIT	
1201 NEW YORK AVENUE, N.W.			PAPER NUMBER	
WASHINGTON, DC 20005			3711	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/806,348	Applicant(s) ZOELLNER, RUTH	
	Examiner Urszula M. Cegielnik	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/29/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Abstract***

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 6, and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Therrien.

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Therrien discloses at least two elements (20) have at least one permanent magnet (30) arranged under a section of the textile cover (col. 5, lines 27-30); a first element having at least one part of magnetizable material, in particular metal, arranged under a first section of the textile cover (col. 4, lines 24-27); a second element having at least one permanent magnet arranged under a second section of the textile cover (col. 5, lines 27-30); the magnetic dipole axis of the at least one permanent magnet is aligned parallel or orthogonally to a surface section of the associated element which serves to connect to a further element (col. 3, lines 58-63); the surface sections of the two elements abutting against each other in a magnetic connection have a mutually corresponding surface geometry and are flat; the at least one first element does not have a permanent magnet serving to connect elements and the at least one second element does not have a part of magnetizable material serving to connect elements (col. 5, lines 10-18); the at least one permanent magnet and at least one part of magnetizable material are held in cutouts of the particular element (col. 4, lines 24-27 and Figure 6, for example); the least one element has a basic geometric shape that is a shape assembled from geometric shapes (i.e. a cube) to form a rectangular configuration (see Figure 9, for example); the textile covers are designed in such a manner that when two permanent magnets and/or one permanent magnet and a part of magnetizable material come into contact (col. 5, lines 24-30), a metallic noise is produced (since Therrien discloses the claimed structure, it is capable of producing a metallic noise); part of an element or one element or a plurality of elements connected

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to one another have the external form of a building; a section of the textile cover may be reflective foil (col. 5, lines 27-31).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Therrien in view of Chang.

Therrien discloses the claimed invention except for the base material being foam and the elements having a sound generating means.

Chang discloses a plurality of toy elements having a base material composed of foam (col. 7, lines 34-35). The secondary further teach providing the toy elements with a sound-generating means (col. 8, lines 58-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plurality of elements with a base material with foam as taught by Chang, since such a modification would make the elements more safe for a child to play with.

Yet still, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide sound generating means as taught by Chang, since such a modification would add appeal to the toy.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

**The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for both regular and After Final communications.**

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3711

A handwritten signature in black ink, appearing to read 'DHB', with a long horizontal line extending to the right.

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700